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Attorneys for Plaintiff
United States of America

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

M/V COSCO BUSAN, LR/IMO Ship No.
9231743, her engines, apparel, electronics, tackle,
boats, appurtenances, *etc.*, *in rem*, THE
SHIPOWNERS' INSURANCE & GUARANTY
COMPANY LTD., REGAL STONE LIMITED,
FLEET MANAGEMENT LTD., and JOHN
COTA, *in personam*,

Defendants.

Civil No. C-07-6045 SC

(AND RELATED CASES:
C-07-5800 SC; C-07-5926 SC)

DECLARATION AND AFFIDAVIT OF
SERVICE OF PROCESS OF SUMMONS
AND COMPLAINT

DECLARATION AND AFFIDAVIT OF SERVICE (REGAL STONE) – C07-6045 SC


1 R. MICHAEL UNDERHILL hereby declares as follows:

2 1. I am the Attorney in Charge of the Department of Justice, Torts Branch, Civil
3 Division, West Coast Office, and one of the attorneys for the United States in this matter. I make
4 this Declaration based upon personal knowledge or upon information officially furnished to me.

5 2. Attached hereto as Exhibit "A" is the Affidavit of Service of Process of the Verified
6 Complaint and the summons to defendant Regal Stone Limited, by and through Kevin Michael
7 Kennedy, said service of process effected pursuant to Fed.R.Civ.P. 4(h)(1) and E(1).

8 I verify under penalty of perjury, in accordance with 28 U.S.C. § 1746, that the foregoing is
9 true and correct.

10 DATED: March 3, 2008.

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13 R. MICHAEL UNDERHILL
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AFFIDAVIT OF SERVICE

Index #: CV 07 6045

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA

Date Purchased: November 30, 2007

Date Filed:

Court Date: February 22, 2008

COUNTY

ATTORNEY(S): R. MICHAEL UNDERHILL ESQ. : U.S. DEPARTMENT OF JUSTICE - CIVIL DIVISION

PH: 415-436-6648

ADDRESS: 450 GOLDEN GATE AVENUE SAN FRANCISCO CA 94102-3463 File No.:

UNITED STATES OF AMERICA,

vs.

Plaintiff(s)/Petitioner(s)

M/V COSCO BUSAN, LR/IMO Ship No. 9231743, her engines, apparel, electronics, tackle, boats, appurtenances, etc., in rem, et al.,

Defendant(s)/Respondent(s)

STATE OF NEW YORK, COUNTY OF NASSAU

SS.:

HARRY TORRES

, being duly sworn deposes and says: Deponent is not a party herein, is over 18 years of age and resides in New York State. On February 19, 2008 at 12:25 PM

at 145 E. 16th Street Apt 18J New York, New York 10003, deponent served the within

Summons In A Civil Case, Complaint and Attached Documents

with Index Number CV 07 6045, and Date Purchased November 30, 2007 endorsed thereon,

on: Kevin Michael Kennedy, therein named.

#1 INDIVIDUAL ☐ By delivering a true copy of each to said recipient personally; deponent knew the person served to be the person described as said person therein.#2 CORPORATION ☐ By delivering to and leaving with _____ and that deponent knew the person so served to be Managing Agent of the corporation, and authorized to accept service on behalf of the corporation.

Service was made in the following manner after your deponent was unable, with due diligence, to serve the witness/defendant in person, and an attempt to locate the defendant's place of employment.

#3 SUITABLE AGE PERSON ☒ By delivering a true copy of each to "JOHN DOE" - CONCIERGE a person of suitable age and discretion. Said premises is recipient's [] actual place of business [X] dwelling house (usual place of abode) within the state.#4 AFFIXING TO DOOR ☐ By affixing a true copy of each to the door of said premises, which is recipient's: [] actual place of business [] dwelling house (place of abode) within the state.#5 MAIL COPY ☒ On February 21, 2008, deponent completed service under the last two sections by depositing a copy of the Summons In A Civil Case, Complaint and Attached Documents to the above address in a 1st Class postpaid properly addressed envelope marked "Personal and Confidential" in an official depository under the exclusive care and custody of the United States Post Office in the State of New York. Certified Mail No. _____

Deponent was unable, with due diligence to find recipient or a person of suitable age and discretion, having called

thereat on the 15 day of February, 2008 at 9:33 AM

on the 16 day of February, 2008 at 8:49 PM

on the 18 day of February, 2008 at 4:31 PM

on the _____ day of _____ at _____

#6 NON-SRVC ☐ After due search, careful inquiry and diligent attempts, I have been unable to effect process upon the person/entity being served because of the following: [] Unknown at Address [] Evading [] Moved left no forwarding [] Address does not exist [] Other: _____#7 DESCRIPTION ☒ A description of the Defendant, or other person served, or spoken to on behalf of the Defendant is as follows: Sex Male Color of skin White Color of hair Black/Gra Age 51 - 65 Yrs. Height 5' 4" - 5' 8" (use with #1, 2 or 3) Weight Over 200 Lbs. Other Features: _____#8 WIT. FEES ☐ the authorized witness fee and / or traveling expenses were paid (tendered) to the recipient.#9 MILITARY SRVC ☒ Deponent asked person spoken to whether the defendant was presently in military service of the United States Government or of the State of New York and was informed that defendant was not.#10 OTHER ☒ PER CONCIERGE KEVIN MICHAEL KENNEDY LIVES HERE BUT ONLY STAYS IN THE APARTMENT FOR A DAY OR TWO THEN HE GOES AWAY FOR WEEKS AT A TIME. THE CONCIERGE "JOHN DOE" REFUSED TO GIVE HIS NAME.

Sworn to before me on this 21 day of February, 2008

BARBARA A. SHURGIN

NOTARY PUBLIC, State of New York

No. 30-5004737, Qualified in Nassau County

Commission Expires November 23, 2010

HARRY TORRES

Server's Lic # 0915257

Invoice/Work Order # 0806671

RETURN OF SERVICE		
Service of the Summons and Complaint was made by me ¹	DATE <u>Feb. 19, 2008 12:25pm</u>	
NAME OF SERVER (PRINT) <u>Harry Torres</u>	TITLE <u>Process Server Lic#: 0915257</u>	
Check one box below to indicate appropriate method of service		
<input type="checkbox"/> Served personally upon the defendant. Place where served: _____		
<input checked="" type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left: <u>"John Doe"</u> <u>Building Concierge</u>		
<input type="checkbox"/> Returned unexecuted: _____		
<input checked="" type="checkbox"/> Other (specify) <u>"John Doe" refused to give his name.</u> <u>"John Doe" is authorized to accept service and he did.</u>		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL \$0.00
DECLARATION OF SERVER		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <p>Executed on <u>Feb. 21, 2008</u> x <u>[Signature]</u> <small>Date</small> <small>Signature of Server</small></p> <p style="margin-left: 350px;"><u>265 Post Ave</u> <u>Westbury, NY 11590</u> <small>Address of Server</small></p>		

(RETURN TO COURT)

RETURN OF SERVICE

I. I hereby acknowledge that service of process was executed by serving Defendant, Kevin Michael Kennedy,
The Building Concierge "John Doe"
by giving ~~him/her~~ a true copy of the order directing service of process, the complaint, and the Special Appointment Order. The following documents were also served on the above-named defendant:

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in this Return of Service is true and correct.

DATE SERVED: Feb. 19, 2008

By: _____
(United States Marshal or Special Appointee)

As defendant in this action, I hereby acknowledge receipt of service of process on my own behalf.

Defendant's Signature

Defendant's Printed Name

II. I hereby acknowledge that service of process cannot be executed upon the defendant for the following reason(s):

DATE OF ATTEMPTED SERVICE: _____

By: [Signature]
(United States Marshal or Special Appointee)